

U.S. Application No. 10/751,732, filed January 2, 2004  
Attorney Docket No. 14230US03  
Amendment AF dated September 8, 2009  
In Response to Office Action Made Final mailed July 7, 2009

### **REMARKS**

Claims 1-46 are pending. Claims 1-46 stand rejected.

Claims 1-13, 16-25, 29-31, 45 and 46 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Culley.

Applicant respectfully submits that Culley is not considered as prior art under 35 U.S.C. § 102(e). 35 U.S.C. § 102(e) relates to an invention that was described in a published patent application or a granted patent. Culley is neither a published patent application nor a granted patent.

In view of the error, it is respectfully requested that the rejection under 35 U.S.C. § 102(e) be withdrawn and, since no amendments have been made to the claims, it is respectfully requested that a non-final Office Action be issued, if applicable.

The remaining claims stand rejected under 35 U.S.C. § 103(a) based on a combination of Culley and U.S. Patent No. 7,124,198 ("Pinkerton"). In view of the arguments made above with respect to Culley, it is respectfully submitted that the obviousness rejection based, at least in part, on Culley, as asserted, cannot be maintained.

It is therefore respectfully requested that the obviousness rejection based on the combination of Culley and Pinkerton, as asserted, be withdrawn.

Applicant does not necessarily agree or disagree with the Examiner's characterization of the documents made of record, either alone or in combination, or the Examiner's characterization of recited claim elements. Furthermore, Applicant respectfully reserves the right to argue the characterization of the documents of record, either alone or in combination, to argue what is allegedly well known, allegedly obvious or allegedly disclosed, or the characterization of the recited claim elements should that need arise in the future.

Applicant respectfully reserves the right to pursue, without prejudice, subject matter that has been withdrawn, amended and/or cancelled in a continuing and/or related application.

With respect to the present application, Applicant hereby rescinds any disclaimer of claim scope made in the parent application or any predecessor or related application. The

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Examiner is advised that any previous disclaimer of claim scope, if any, and the alleged prior art that it was made to allegedly avoid, may need to be revisited. Nor should a disclaimer of claim scope, if any, in the present application be read back into any predecessor or related application.

In view of at least the foregoing, it is respectfully submitted that the present application is in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: September 8, 2009

Respectfully submitted,

/Michael T. Cruz/  
Michael T. Cruz  
Reg. No. 44,636

McANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, Suite 3400  
Chicago, Illinois 60661  
Telephone: (312) 775-8000  
Facsimile: (312) 775-8100